

**HUMAN SERVICES**

**DIVISION OF DEVELOPMENTAL DISABILITIES**

**DIVISION OF MENTAL HEALTH SERVICES**

**COMMUNITY MENTAL HEALTH AND DEVELOPMENTAL DISABILITY**

**INVESTMENT**

Proposed Readoption with Amendment: N.J.A.C. 10:10

Authorized By: Gwendolyn L. Harris, Commissioner

Department of Human Services

Authority: N.J.S.A. 30:4-177.53 et seq., specifically 30:4-177.58

Calendar Reference: See below for explanation of exception to calendar requirement.

Proposal Number: PRN 2004 - 38

Comments may be submitted in writing by April 2, 2004 to:

Melanie S. Griffin, Esq.

Legal Liaison

Division of Mental Health Services

P.O. Box 727

Trenton, New Jersey 08625-0727

The agency proposal follows:

Summary

N.J.A.C. 10:10, Community Mental Health and Developmental Disability Services Investment, is due to expire on January 15, 2005, pursuant to N.J.S.A. 52:14B-5.1(c). The Department of Human Services (Department) has reviewed these rules and has determined that they are necessary, adequate, reasonable, proper and responsive for the purposes for which it was originally promulgated. The Department is therefore proposing N.J.A.C. 10:10 for readoption with amendments. Changes to the definition of “community mental health and developmental disability services” in N.J.A.C. 10:10-1.3 are being proposed to add further clarification: (1) a citation to N.J.A.C. 10:37F, Outpatient Services, has been added; and (2) a reference to consumers with developmental disabilities was added.

The purpose of the Community Mental Health and Developmental Disability Services Investment Act, N.J.S.A. 30:4-177.53 et seq. (Act), is to ensure that as expenditures for State inpatient resources are reduced, additional funding is invested in community-based mental health services and community-based services for persons with developmental disabilities. The scope of both the Act and these rules extends to the Department's Division of Developmental Disabilities and the Division of Mental Health Services.

In accordance with the Act, these rules provide that all proceeds from the sale of facility property of the Division of Developmental Disabilities or the Division of Mental Health Services, net the costs of marketing and disposal of the property,

are to be held in a separate account and used for the establishing or funding of community mental health and developmental disability services. In addition, when a Division of Developmental Disabilities or Division of Mental Health Services facility's residential capacity is reduced by 50 percent or more, the funds realized by such a reduction in capacity shall be used to support the individuals who formerly resided at the facility and have been moved to community mental health and developmental disability services. Alternatively, when the amount of funds realized by such a reduction is not required for community developmental disability services, the funds shall be used to provide for services for those individuals on the Division of Developmental Disabilities waiting list for services, and when the amount of funds realized by such a reduction is not required for individuals formerly residing at the psychiatric hospital, the funds shall be used by the Division of Mental Health Services to improve and enhance community mental health services.

Because the Department has provided a 60-day comment period on this notice of proposal, it is excepted from the rule-making calendar requirements pursuant to N.J.A.C. 1:30-3.3(a)5.

#### Social Impact

The rules proposed for readoption with amendment will enable the Department to increase the level of services provided to its Division of Developmental Disabilities and Division of Mental Health Services clients in the community as

well as to provide services to a larger number of clients. The actual number of clients to whom services will be increased will vary based on the value of the land sold in any given fiscal year and/or the cost of services purchased for the specific clients with specific needs. It is expected that the community will have a very positive reaction to the rules in that the rules provide for the implementation of improved and increased community services for clients.

The significant impact of these rules will be most positive. In accordance with the legislation, these rules enable the Department to better meet the ongoing need for community services for clients of the Division of Developmental Disabilities and the Division of Mental Health Services. The result will be that more clients will be served and clients currently receiving services will have more available services from which to choose. These rules ensure that additional funding is invested in community-based mental health services and community-based services for persons with developmental disabilities as expenditures for State inpatient resources are reduced as a result of land sales. The rules do not directly relate to the general subject area of possible facility closure and any concerns relating thereto.

#### Economic Impact

These rules proposed for readoption with amendment should result in no negative economic impact. In fact, since State funds will be spent in the local

New Jersey communities, there should be a positive impact in terms of real estate, construction and employment. The availability of funding for additional services will, of course, have a positive impact on the Department's clients. Statistical data will not be available until after the land sales have been completed and the funding has been allocated to the various programs. The funding generated should enhance rather than replace any existing funding streams.

#### Federal Standards Statement

A Federal standards analysis is not required because the rule proposed for readoption with amendment are not subject to any Federal requirement or standard.

#### Jobs Impact

The rules proposed for readoption with amendment will not generate or cause the loss of any jobs, but they may generate additional jobs in the community where funding will be invested in community-based services.

#### Agriculture Industry Impact

The rules proposed for readoption with amendment would have no impact on agriculture in the State of New Jersey.

### Regulatory Flexibility Statement

The rules proposed for readoption with amendment have been reviewed with regard to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. These rules impose no reporting, recordkeeping or other compliance requirements on small businesses. Therefore, a regulatory flexibility analysis is not required. These rules concern the sale of Department facility property and not the property of any private business establishments.

### Smart Growth Impact

The rules proposed for readoption with amendment will have no impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:10.

Full text of the proposed amendments follows (additions indicated in boldface thus; deletions from proposal indicated in brackets [thus]):

10:10-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

. . .

"Community mental health and developmental disability services" means the following services for persons with serious mental illness, or for persons with developmental disabilities, as appropriate:

1 – 2. (No change.)

3. Outpatient services which provide [a level of] treatment and rehabilitation to persons with serious mental illness in accordance with N.J.A.C. 10:37E and 10:37F, and those with developmental disabilities, in accordance with N.J.A.C. 10:46-2.3;

4 – 8. (No change.)